

**THE WYOMING OFFICE OF THE ATTORNEY GENERAL  
DIVISION OF VICTIM SERVICES**

# **Guide For Board Service**

## **Wyoming Domestic Violence & Sexual Assault Program Board Member Guide**



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## **Introduction**

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Thank you for serving as a board member. Wyomingites rely heavily on charitable corporations to provide many public benefits, and our quality of life is dependent upon the many volunteer board members who are willing to give of their time and talents. Although Domestic Violence & Sexual Assault programs throughout Wyoming vary a great deal in size, structure and mission, there are a number of principles that apply to all programs.

This guide is provided by the Wyoming Division of Victim Services (DVS) to assist board members in performing their important functions and to help understand their participation. The Wyoming Division of Victim Services administers federal, state and surcharge funds (money obtained through criminal fines and fees) to Victim/Witness Programs and Domestic Violence/Sexual Assault Programs throughout the state.

- Victim/Witness Program are primarily in law enforcement and prosecuting attorney's offices. Victim/Witness Programs provide various services such as assisting victims with emergency funds, case status, and court accompaniment and witness notification
- Domestic Violence/Sexual Assault Programs (DV/SA) are responsible for providing crisis intervention, advocacy and shelter to victims of domestic violence, sexual assault and stalking. DV/SA programs also provide education and prevention in their community

The DVS also administers the Wyoming Crime Victims Compensation Program. The compensation program assists hundreds of victims annually who have suffered financial loss, physical injuries and emotional trauma as a result of violent crime. The program can help with such expenses as lost wages or loss of support, medical, mental health counseling, relocation, funeral expenses and crime scene clean up.

This information is only a guide and is not meant to suggest the exact manner board members must act in all situations. Specific legal questions should be directed to your attorney. We wish to acknowledge Authenticity Consulting LLC, The Board Source & the National Center for Non Profit Boards for their support of the production of this document.



# **The Three R's**

## **Your Role, Your Rights and Your Responsibilities.**

### **Understanding Your Role**

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Board members are recruited for a variety of reasons. Some individuals are talented fundraisers and are sought by charities for that reason. Others bring credibility and prestige to an organization.

Whatever the reasons for service, the principal role of a board member is stewardship. This requires active participation. People who do not have the time to regularly participate should not agree to be on a board. The board must insure the organization is operated for its public purpose; it may not be operated for private benefit. Proper stewardship requires the organization's assets be held "in trust", to be applied to the organization's mission.

One of the most important functions of the board is keeping the resources and efforts focused on the organization's mission. This requires the board to have an adequate understanding of the organization's programs, people and resources available to achieve the organization's goals. As a starting point, every board member should be familiar with the organization's Articles of Incorporation and Bylaws, as well as the Wyoming State Rules of the Operation of Community Domestic Violence and Sexual Assault Programs.

### **Understanding Your Rights**

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In order to carry out your legal responsibilities as a board member, you must be able to make informed judgments about important matters regarding the organization and operations. The law permits you to reasonably rely on information from the organization's staff, its lawyer, its accountant, outside advisors, and board committees in making those judgments.

Your right to information includes the following: You have the right to reasonable access to management, to have reasonable access to internal information of the organization and to the organization's principal advisors, such as its auditors and lawyers. Directors of programs must also be willing to facilitate board access to books and records of the organization. The board has the right, if necessary, to engage the services of outside advisors at the organization's expense to assist it with a particular matter. *Please keep in mind, board members do not have the right to access confidential information of the clients their program serves.*

## Understanding Your Responsibilities

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In carrying out board responsibilities, the law generally imposes three duties of trust. They are regularly described as the duties of **due care, loyalty to the corporation and obedience to the law.**

**Duty of due care.** This responsibility generally requires that board members must discharge the duties with the care an ordinary prudent person in a like position would exercise under similar circumstances. Board members need not always be right, but they must act with common sense and informed judgment. To exercise this duty properly, boards must pay particular attention to the following:

- **Active participation.** A board member must actively participate in the management of the organization including attending periodic meetings of the board, evaluating reports, reading minutes and reviewing the performance of the chairman.
- **Reasonable inquiry.** Board members should request and receive sufficient information so they may carry out their responsibilities. When a problem exists or a report on its face does not make sense, a board member has a duty to inquire into the surrounding facts and circumstances. The director also has a duty to investigate warnings or reports of officer or employee theft or mismanagement.

**Duty of loyalty.** Board members have a duty to give their undivided loyalty to the charitable corporation. Decisions regarding the organization's funds and activities must promote the organization's public purpose rather than private interest. Any potential conflict transactions should be scrutinized closely by the board with the realization the public will predictably be skeptical of such arrangements. There are some general principles which will serve to guide boards faced with conflict of interest situations.

- **Conflicts in general.** While transactions between the charitable corporation and individual board members, their families and businesses they own or operate should be avoided, they are not absolutely prohibited. Under certain circumstances, a contract or transaction between a nonprofit corporation and its director or an organization in which the director has a material or financial interest is acceptable. However, if the transaction is challenged, board members will have the burden of establishing the contract or transaction is fair and reasonable, there was full disclosure of the conflict and that the contract or transaction was approved by members or other directors in good faith. The board should only approve the transaction if it is clearly in the best interest of the organization.
- **Written policy.** The board should establish a written policy for dealing with conflicts of interest. The policy should address disclosure of financial interest and withdrawal from discussion and voting by interested board members. Due to the sensitivity of conflicts of interest, the board may want to require transactions benefiting a board member may be approved only by a greater than majority vote. Also, requiring an annual disclosure by all board members of their business involvement with the nonprofit organization is recommended.



**Duty of obedience.** Board members have a duty to follow the organization's governing documents (Articles of Incorporation and Bylaws), to carry out the organization's mission and to ensure funds are used for lawful purposes. Also, board members must comply with other state and federal laws and rules that relate to the organization and the way in which it conducts its business. For example, board members should be familiar with:

- **Mission and procedures.** Board members should be familiar with the organization's governing documents and should follow the provisions of those documents. Board members should be sure proper notice is given for meetings, regular meetings are held, and the organization's mission is being accomplished.
- **Other duties.** In addition to the above three general fiduciary duties, there are a number of specific responsibilities which must be observed by nonprofit corporate board members.
- **Satisfactory corporate documents and records.** A non profit corporation is required to have Articles of Incorporation and Bylaws. You should see they are updated and consider amendments if they do not reflect the current mission and operating procedures of the organization. The organization is also required to keep minutes of its board meetings and a record of all actions taken by committees of the board of directors. Visit [legisweb.state.wy.us](http://legisweb.state.wy.us) to view Wyoming's Non Profit Act.
- **Adequate financial records and controls.** One of the board's responsibilities is to oversee the organization's financial affairs, making sure the organization has adequate internal accounting systems and controls. With embezzlement from nonprofit organizations on the rise, it is imperative financial controls are in place before theft occurs. The board should be responsible for approving the organization's annual budget. Board members should expect timely and adequate income and expense statements, balance sheets and budget status reports, and should expect to receive these in advance of board meetings.
- **Safeguarding.** The board should oversee the effective use of the resources of the organization. Policies should be adopted and large transactions approved to ensure the organization's assets are not misapplied or wasted. The board should ensure the assets are invested prudently, avoiding high risk investments and employing some diversification of investments.

**Observing donor restrictions.** All donations must be used in a manner which is consistent with the organization's stated mission. However, some donors designate that gifts are to be used for a particular purpose. It is important to keep faith with donor intentions. The board is obligated to see such restricted funds are used for the stated purpose(s).



## **Ten Basic Responsibilities**

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- 1. Determine the Organization's Mission and Purpose**
- 2. Select a Director**
- 3. Support the Director and Review His or Her Performance**
- 4. Ensure Effective Organizational Planning**
- 5. Ensure Adequate Resources**
- 6. Manage Resources Effectively**
- 7. Determine and Monitor the Organization's Programs and Services**
- 8. Enhance the Organization's Public Image**
- 9. Serve as a Court of Appeal**
- 10. Assess Its Own Performance**

## **Ten Basic Responsibilities of Nonprofit Boards**

### **1. Determine the Organization's Mission and Purpose**

A statement of mission and purposes should articulate the organization's goals, means, and primary constituents served. It is the board of directors' responsibility to create the mission statement and review it periodically for accuracy and validity. Each individual board member should fully understand and support it.

### **2. Select a Director**

Boards must reach consensus on the director's job description and undertake a careful search process to find the most qualified individual for the position.

### **3. Support the Director and Review His or Her Performance**

The board should ensure the director has the moral and professional support he or she needs to further the goals of the organization. The director, in partnership with the entire board, should decide upon a periodic evaluation of the director's performance.

### **4. Ensure Effective Organizational Planning**

As stewards of an organization, boards must actively participate with the staff in an overall planning process and assist in implementing the plan's goals.

### **5. Ensure Adequate Resources**

One of the board's foremost responsibilities is to provide adequate resources for the organization to fulfill its mission. The board should work in partnership with the director and development staff, if any, to raise funds from the community.

## **6. Manage Resources Effectively**

The board, in order to remain accountable to its donors, the public, and to safeguard its tax-exempt status, must assist in developing the annual budget and ensuring proper financial controls are in place.

## **7. Determine and Monitor the Organization's Programs and Services**

The board's role in this area is to determine which programs are the most consistent with an organization's mission, and to monitor their effectiveness.

## **8. Enhance the Organization's Public Image**

An organization's primary link to the community, including constituents, the public, and the media, is the board. Clearly articulating the organization's mission, accomplishments, and goals to the public, as well as garnering support from important members of the community, are important elements of a comprehensive public relations strategy.

## **9. Serve as a Court of Appeal**

Except in the direst of circumstances, the board must serve as a court of appeal in personnel matters. Solid personnel policies, grievance procedures, and a clear delegation to the director of hiring and managing employees will reduce the risk of conflict.

## **10. Assess Its Own Performance**

By evaluating its performance in fulfilling its responsibilities, the board can recognize its achievements and reach consensus on which areas need to be improved. Discussing the results of a self-assessment at a retreat can assist in developing a long-range plan.



## Board and Management Responsibilities

The following activities are suggested to be done by board, management or jointly. This document should be reviewed by board members to finalize who they would like to do what among board and management members.

Activity	Responsibility
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### PLANNING

Direct the process of planning	Management
Provide input to long range goals	Joint
Approve long range goals	Board
Formulate annual objectives	Management
Approve annual objectives	Board
Prepare performance reports on achievement of goals and objectives	Management
Monitor achievement of goals and objectives	Joint

Assess stakeholder (customers, community) needs	Management
Train volunteer leaders (nonprofits only)	Management
Oversee evaluation of products, services and programs	Board
Maintain program records; prepare program reports	Management
Prepare preliminary budget	Management
Finalize and approve budget	Board
See that expenditures are within budget during the year	Management
Solicit contributions in fundraising campaigns (nonprofits)	Board
Organize fundraising campaigns (nonprofits)	Management
Approve expenditures outside authorized budget	Board
Insure annual audit of organization accounts	Board

## Board and Management Responsibilities

### PERSONNEL

Employ Director	Board
Direct work of the staff	Management
Hire and discharge staff member	Management
Decision to add staff (nonprofit)	Board
Settle discord among staff	Management

### COMMUNITY RELATIONS

Interpret organization to community	Board
Write news stories	Management
Provide organization linkage with other organizations	Joint

### BOARD COMMITTEES

Appoint committee members	Board
Call Committee Chair to urge him/her into action	Board
Promote attendance at Board/Committee meetings	Joint
Recruit new Board members	Board
Plan agenda for Board meetings	Joint
Take minutes at Board meetings	Joint
Plan and propose committee organization	Joint
Prepare exhibits, material and proposals for Board and Committees	Management
Sign legal documents	Board
Follow-up to insure implementation of Board and Committee decisions	Management
Settle clash between Committees	Board



## Strategic Planning

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By combining corporate best practices with non-profit philosophies, a Strategic Plan helps you effectively achieve your purpose.

The following Strategic Plan is specifically structured for organizations that are not profit driven.

Quite often, an organization's business planners already know much of what will go into a strategic plan. However, development of the strategic plan greatly helps to clarify the organization's plans and ensure key leaders are all on the same script.

Strategic planning will focus the entire organization on a single, strategic direction by defining a clear ***vision*** of the future, the major ***goals*** that accomplish the vision, the measurable ***objectives*** that will track progress, and the specific ***strategies*** for bringing about the results.

Far more important than the strategic plan document, is the strategic planning process itself.

## Strategic Planning

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### Understand Your Agency's Roadmap for the Future

We strongly believe success for any agency requires the active involvement of the Board and strategic planning. We have provided this roadmap – for your agency for the next 12 months to help understand your Board's role in those plans.

#### Consider These Areas for Development

Consider the following areas and rank which areas need the most attention, with “1” meaning the least important and “3” as the most important to address over the next 12 months.

- Board operations (staffing the Board, organizing active committees, holding participative and focused meetings, making strategic decisions, supervising the director, evaluating the agency, assisting in fund-raising and assurance of program funding eligibility)
- Director development (support the Board, manage staff members, administrate finances, coordinate facilities, coordinate fundraising with the Board, etc.)
- Programs (clarifying which community need is met by a particular program, what specific groups of clients are served, what outcomes are to be achieved, how the program will be staffed, how the program will be evaluated)
- Staff development (recruiting staff and volunteers, training them, organizing them, delegating to them, evaluating them, ensuring up-to-date personnel policies)
- Financial management (adopting fiscal policies and procedures, using a bookkeeping system, generating financial statements, training others to analyze statements, etc.)
- Fundraising (identifying amounts to be raised, prospect research, identifying what donors to approach, who will approach and how, database management for grants and reports)
- Advertising and promotions (advertising each program by knowing what words to convey and specifically to whom and how; doing public relations for entire agency)
- Evaluations (of the organization, Board, Executive Director, staff and programs)
- Facilities (public office space & accessibility for all victims)
- Other?
- Other?
- Other?

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**List the Top 5 Goals For Your Agency to Address Over Next 12 Months**

In the left-hand column below, list at least the top 5 areas that received the highest rankings – the areas that need the most attention during the next 12 months.

Next, in the right-hand column, specify how the Board will actively be involved in improving that area. For example, consider using a current or forming a new Board committee. Common Board committees include:

- Board Governance – to develop the Board
- Personnel – to develop the Executive Director and staff
- Programs – to develop and evaluate programs
- Finance – to track and analyze finances
- Fundraising – to raise funds and manage grants
- Marketing – to promote each program and the agency

<b>Area of internal operations to improve over the next 12 months</b>	<b>Board Committee: who will actively oversee planning and improvement of that area</b>
1.	
2.	
3.	
4.	
5.	



## Frequently Asked Questions???

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### **Should Staff Contact with the Board be Restricted?**

The challenge: should board members have contact with staff independent of the director? For directors, this issue raises blood pressure faster than almost any other. Directors often feel independent board-staff contact undermines their authority, and creates the potential for staff to give misleading and undermining information to the board. Board members want to respect the authority of their CEO, but they also know they can often serve best by meeting separately with staff on program or fundraising issues, and they value the independent viewpoint they can develop when not all their information is filtered through the director. *RESTRICTING contact between board and staff usually results in suspicion on the part of the board and resentment from the staff.*

We suggest the following guidelines:

There are no restrictions on contact, but the director must be informed about meetings. (Example: a voice mail message from the Controller saying, "Hey, I just wanted you to know I'm meeting with the board treasurer next week to go over cash flow projections. Let me know if you have any concerns or things you want me to bring up."). Board members can request information and reports (such as another copy of the budget or last month's client statistics report), but must stop short of directing staff work by asking for reports that are not already prepared (new reports can be requested of the director).

Personnel grievances must go through the channels specified in the personnel policies. Board members should direct staff complaints to those channels. There should be a defined channel by which staff can raise concerns to the board about the way the director is running the organization. We suggest such complaints and concerns be directed to the board chair **ONLY**, not to any other board member. As representatives of the public, the board needs to know if staff has serious criticisms to raise, but it's only fair to the director **AND** to the board president for these to be handled in a defined way. The board chair can choose to raise the concerns to the director, or to bring them to the board for investigation.

### **How Much to Pay Our Executive Director?**

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This is one of the tough questions with which boards struggle. Americans are very private about their own salaries, and income patterns in the United States vary widely and are fraught with inconsistencies. School teachers can make less than many jobs that require less training and have lighter responsibilities; corporate CEOs can make 400 times their lowest-paid employees (an entry level person making \$20,000 and the CEO making \$4 million), and people of color (and women) often make less than their counterparts.

As a result of wildly uneven salary ranges across occupations and cities, whether a salary seems high or low can frequently depend on what one's own salary is. If board members typically each make \$35,000/year, they will probably think that \$33,000 is a reasonable salary for the director. They would be aghast at the thought of paying \$85,000. But if board members typically each make \$250,000/year, they could easily assume that they need to pay \$150,000 to get someone "decent." (In some organizations, this phenomenon acts as an incentive for directors to get wealthier people on the board.)

In a national study of nonprofit executive directors, one disturbing trend was gender differences in salary. In five of the six organization sizes studied, male executives make significantly more than their female colleagues. The gender gap is especially wide at larger agencies: the national mean salary for women executives of nonprofits between \$5 and \$10 million was \$82,314; at this same budget size, the mean salary for men was \$98,739. (*Daring to Lead: Nonprofit Executive Directors and Their Work Experience*, available for free download or purchase a hard copy at <http://www.compasspoint.org>.)

Trying to be fair, to correct for individual prejudices, to attract and retain a strong executive, and to stay within the budget are often competing objectives in determining compensation. There are also different ways to pay: in salary, in benefits, in retirement plans, in paid leave. A national study by the Neighborhood Reinvestment Corporation showed the existence of a retirement plan correlated more strongly to director retention than any other factor—including salary.

### **Some suggested guidelines for determining an appropriate salary:**

1. What salary makes this job competitive in the market for talent? To where is our director most likely to depart? If the answer is a similar nonprofit, look at the salaries of comparable nonprofits in the area. [But keep in mind that salaries at very similar nonprofits can be different by factors of 10 or more.] If the answer is government, look at the kinds of positions your director might take, and what salary and benefits are being offered.
2. What salary is fair internally? How much are other employees making? How distant or how close do you think is appropriate?
3. What salary recognizes the contribution the director will make in the coming year? Are performance expectations and demands increasing to the point where a higher salary seems warranted? Performance in the last year gives us the best clues about what the director will do next year.
4. What signal do we want to send the director? Words are important, but so is money. Praising a director while keeping her compensation flat ends up conveying a message that the board doesn't really value her work.
5. What are all the elements of compensation we can offer? Retirement plan contributions, extra time off, or other benefits may be important to the director.

6. Is our revenue/fundraising plan aggressive enough to allow us to afford appropriate salaries for the director and all the staff? For too many boards (and directors), it's easy to say "we can't afford to pay what we ought to." The board must insist that the organization's budget and plan for future funding (whether earned or donated money) include funds for appropriate compensation

Finally, here's a true story from a director of a small peace organization. Karen A. had been anxious on the way to the board meeting where her salary was to be discussed. She was hoping to get a raise of at least 10%. To her surprise, the board announced they were giving her a 25% raise! She was very happy and felt great they recognized her work. But on the way home, she was suddenly struck by the thought: "Now I have to *raise it*!"

In other words, it doesn't do most directors any good to get a "raise" if the board is not engaged in planning and executing the acquisition of funds.

### **The Board Should Raise Money: True or False? by Jan Masaoka**

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The all-too-common scenario: the director is frustrated because he/she thinks it's the duty of the board to raise money—but they aren't. A few board members agree and they say (or bring in a consultant to say) something like: "Every member must give, get, or get out." Board members typically have three reactions simultaneously. First, resent being required to do something when they were not told of this requirement when they were invited to join the board. Second, they feel guilty anyway. Third, doubt they could succeed at raising money.

To untangle this knot, it's helpful to think of the board as having two roles: a Governance role where the board acts as a body to ensure accountability, and a support role where board members support the organization, acting as individuals, through volunteering and donating. Ensuring the organization has a realistic strategy for raising funds *is* a critical governance responsibility of the board. But that strategy may or may not include individual fundraising by board members. The strategy for raising funds will probably include a combination of efforts: fees-for-service (such as tuitions, service fees, registration fees, tickets), special events mail fundraising campaigns, government contracts, and individual major donor gifts.

There are four crucial rules to fundraising on the board:

1. As a body, the board is responsible for approving and monitoring performance of a revenue strategy that will sustain the organization's work.
2. In the context of that plan, as individuals, each board member must do something to help implement that strategy.
3. No one has to do everything, and
4. Expectations must be clearly and fairly communicated to new board members during the recruitment process.

In other words, there should be methods that take advantage of each of the individual strengths the board members have and are willing to contribute.

The board's Governance responsibility is to ensure a suitable financial or revenue strategy is in place. This strategy must have three characteristics: a) it will result in funding needed by the organization for its work; b) it will provide funding for emergency reserve, evening out cash flow and organizational investments (such as in new computers or carpeting, or a publicity campaign); and c) it is in line with the organization's ethics and values (for example, whether or not a community center should accept donations from beer companies).

For a breast cancer awareness center, the board may consider several funding strategies, such as a) a combination of foundation grants and an annual dinner/dance; b) a combination of participating in a combined breast cancer walk-a-thon and publication sales; c) mail appeals combined with major individual gifts; d) government contracts combined with foundation grants, etc. This board may decide to adopt a strategy of participating in the walk-a-thon, selling publications, and soliciting major individual donations. This decision is based on what is realistic for their current board and staff as well as the opportunities most open to them.

As a result, board members in their support responsibilities agree that each board member will participate in one or more activities. One board member agrees to bring 10 volunteers to help at the walk-a-thon. Another will send out email publicity about publications to book editors and bookstores. A third agrees to hold a party at her house and ask her friends to attend for \$1,500 each. Each board member is, in a way comfortable to her, supporting either the contributions component or the earned-income component of the revenue strategy.

In short, the board's Governance responsibility is fulfilled by its choosing and monitoring a revenue plan, while individuals support the organization by participating in the plan's implementation. Clarifying this distinction, as well as the expectations of board members, will go a long way towards calmer, less charged, more productive discussions about fundraising.

### **The Right Way to Do the Right Thing** by Betsy Rosenblatt, National Center for Nonprofit Boards

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One way to establish a shared framework for accountability is to develop and implement an organizational code of ethics. When developing a code of ethics that represents shared values and will be accepted by board members, staff and volunteers, it's important to involve a wide spectrum of people. Form a board committee, including someone with legal background if possible, to examine your organizational culture and needs to determine what kind of code to develop. While some people might balk at signing an ethics code because they believe they already behave ethically and haven't done anything wrong, the process can help people see that such a code demonstrates a commitment to standards and sets expectations for ethical behavior across the whole organization. Keep the language of the document clear and accessible, instead of composing in legalese, to ensure board, staff, and volunteers can all understand what's expected of them.

One of the most often-told tales of flagrantly unethical behavior is that of William Aramony, former president of the United Way of America, who is currently serving a prison sentence for defrauding that organization. After the Aramony scandal, in addition to other reforms, the United Way launched a major effort to implement an effective ethics program.



Its code, written by a board committee, applies to everyone associated with the organization, and all board and staff are asked to sign it annually and to provide feedback, which is incorporated into future revisions.

Here are some of the components used by United Way of America you may want to include when developing your own code of ethics:

**Preamble** - a brief background statement that articulates the organization's basic mission and values.

**Personal integrity** - a pledge based on one's own personal integrity that represents the organization's commitment to dealing with others in a fair and truthful manner.

**Professional excellence** - characteristics and behavior, such as respect for others, fair evaluation, and positive regard, that constitute professional excellence as a model for board, staff, and volunteers to follow.

**Accountability and responsibilities** - an emphasis on good stewardship, the organization's responsibilities to its constituents, and their responsibilities to the organization.

**Equal opportunity and diversity** - establish the organization's commitments in hiring and other personnel practices.

**Conflict of interest, personal gain, and expense reporting** - the conflict of interest provision is of particular importance. It represents a strong value statement that all decisions will be in the best interests of the organization. It is a helpful reminder that individuals should evaluate their conduct and their decisions in light of their impact on the organization vis-à-vis the public and, more precisely, in light of how they might reasonably be perceived by others.

These standards are the essence of any code of ethics, and they constitute core values helping to underscore that the public can place its faith in the organization's basic integrity. Stressing the importance of buy-in from everyone involved and reevaluating the document every year help make your code of ethics a living document instead of something that sits on the shelf.

## **What is a Conflict of Interest Policy?**

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Three straightforward safeguards can go a long way towards preventing and avoiding conflicts of interest.

First, the organization can establish a policy related to conflict of interest, which is signed by all board members at the time they join the board and perhaps renewed annually. The statement may be a simple declaration or it may require detailed information about the board members' financial interests.

Second, establish disclosure as a normal habit or practice. Board members should find it customary for someone to say, for example, "This next agenda item relates to joining a collaboration with other mental health agencies that receive county funds. Because I am on the staff of one of the agencies involved, I have a potential conflict of interest and I am going to excuse myself from the room for this discussion." In another situation a board member might say, "I have started to date the Clinic Director and as a result feel I must resign from the board. I would like to continue as a member of the Fundraising Committee, but not as a board member." Disclosures and excusal from voting should be recorded in the meeting's minutes.

Third, if major purchases are involved, competitive written bids should be obtained to ensure prices and product are comparable if there will be a financial benefit to a board member. Perhaps even more than written policies, board and staff leadership must establish by example and attitude an atmosphere of personal integrity. Some situations may need only a brief informal comment to maintain that climate.

In other situations a decision may be delayed because of the need to ensure that the decision has been made truly in the best interests of the organization. Each of us, by our words and actions every day, contributes towards a culture of integrity and responsibility.

## Sample Conflict of Interest Policy

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The standard of behavior at the \_\_\_\_\_ Program is that all staff, volunteers, and board members scrupulously avoid any conflict of interest between the interests of the Willow Organization on one hand, and personal, professional, and business interests on the other. This includes avoiding actual conflicts of interest as well as perceptions of conflicts of interest.

I understand the purposes of this policy are: to protect the integrity of the (your name) Organization's decision-making process, to enable our constituencies to have confidence in our integrity, and to protect the integrity and reputation of volunteers, staff and board members.

Upon or before election, hiring or appointment, I will make a full, written disclosure of interests, relationships, and holdings that could potentially result in a conflict of interest. This written disclosure will be kept on file and I will update it as appropriate.

In the course of meetings or activities, I will disclose any interests in a transaction or decision where I (including my business or other nonprofit affiliation), my family and/or my significant other, employer, or close associates will receive a benefit or gain. After disclosure, I understand I will be asked to leave the room for the discussion and will not be permitted to vote on the question.

I understand this policy is meant to be a supplement to good judgment, and I will respect its spirit as well as its wording.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

## What to Do With Board Members Who Don't Do Anything

*"He never comes to meetings or does anything. Why does he even stay on the board?"*  
*"She always says she'll take care of it and then she doesn't follow through. Aaagh!"*

Whose responsibility is it to "do something" about a board member who is AWOL, deadwood, undependable, a procrastinator, or worse? Answer: Yours. Every board member shares in the responsibility to involve each board member in contributing to the well-being of the board and the organization. If you're the board chair or an officer, your responsibilities include monitoring non-participation and intervening with board members when necessary. In some cases you may need to talk with the director about improving the way he or she works with board members. If you're the director, you may need to discuss the situation with board leadership. There are two things you *must* do in the case of a board member who is not participating. First, you must do *something*. The problem is likely only to get worse, and non-participating board members have a demoralizing impact on even the best of boards. Second, be confident and hopeful. Many board members just need a little reminder to be more conscientious, and others will be grateful you've given them a graceful way to relinquish tasks or even leave the board. Things will work out.

### Short term strategies:

- ☐ Check to be sure expectations were made clear to the board member before he or she joined the board. "I know you joined the board recently and I'm not sure you realize we ask all board members to attend the annual dinner and, hopefully, to help sell tickets. Let me explain to you what most board members do, so you can see whether you'll be able to work on this with us."
- ☐ Hold a board discussion at which expectations are reconsidered and re-affirmed. Agree on a list of expectations for *every* board member.
- ☐ Be sensitive to possible health issues or personal reasons why a good board member isn't participating as much as he or she has in the past.
- ☐ Transfer responsibilities to someone else. "I'm concerned about finishing the revision of the personnel policies. Since you're so busy, maybe it would work out for the best if John took your notes on the policies and developed a first draft."
- ☐ Together with the board member, explore whether he or she really has the time right now to be able to be an active board member. "I'm calling to check in with you since you haven't been able to make a meeting in the last several months. Are you just temporarily a lot busier than usual? We really want to have your participation, but if it isn't realistic, perhaps we should see if there's a less time-consuming way than board membership for you to be involved."

### **Longer-term strategies:**

- ☐ Make it possible for individuals to take a “leave of absence” from the board if they have health, work, or other reasons why they cannot participate fully for awhile. An individual can, for example, take a “6 month maternity leave” or a “disability leave.”
- ☐ Have a board discussion or a written board survey on what makes it difficult for people to participate fully. “Are there things we can change about the frequency, day, time, or length of board meetings that would make it easier for you to attend?” “Are there things about the way the board meetings are conducted that would make it easier for you to attend or that would give you more reason to want to attend?”
- ☐ Consider whether board participation is meaningful to board members. Have lunch with some of the semi active members and/or the director: “I’m sensing board participation just isn’t as substantive or significant as some board members want it to be. What do you think are the reasons, and what do you think we can do to make board membership more meaningful?”
- ☐ Revise what is expected of board members. Perhaps responsibilities have been given to a board member that are unrealistic for any but the super-board-member. Reduce the number of committees and utilize short-term task forces instead. Re-design jobs and responsibilities to fit the ability of a busy achiever to accomplish them.

## The Board and the Budget: Beauty and the Beast?

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Have you ever witnessed the following scene? The finance discussion is scheduled for the end of the meeting, so it is hurried. Given a complex budget that “needs to be approved,” board members react first by looking for things they *can* understand. . . usually a relatively small expense item: “Why is this travel budget so high?” “Can this phone budget be reduced?” As each question or suggestion is raised by board members, staff respond by explaining why each suggestion is unrealistic. “The travel budget has been funded for Program X so we have to do it.” “Actually the phone budget is not that big.” After a few instances of staff “explaining” line items, board members realize asking such questions isn’t really going anywhere. In the backs of their minds is the thought, “It’s probably okay. It was okay last year and I didn’t understand it then either.” So they vote to “approve the budget.” In short, board members first nit-pick, staff reacts to questions as evidence of the board’s ignorance, and then the board rubber-stamps the budget. The truth is such approval of the budget isn’t a meaningful act on the part of the board. The staff *does* know more about operations, and appropriately, staff should develop the budget. So what *would* be meaningful work for the board on the budget?

In its governance role, the board is responsible for the organization’s finances: ensuring the budget reflects the organization’s priorities, new programs are in line with the overall direction, and by reviewing financial statements, seeing adequate funds are being obtained and used appropriately. A strong Finance Committee can hold an initial discussion with the board, and then work with staff to bring a budget to the board that reflects those directions, and the board can approve the budget, thereby authorizing staff to go forward with raising and spending funds as planned. Here are some questions that take advantage of the board’s diverse community perspectives, as well as a knowledgeable and skilled finance staff:

☐ What are two or three important choices we face right now? Examples: Drop the membership newsletter? Institute a 401K program? Hire staff with a “pretty certain” commitment from a foundation? Use some reserves on new technology? Set a financial objective of building a cash reserve of \$100,000? The board should discuss important choices, ask for an analysis of the financial implications, and see that agreed-on choices are embedded in the budget.

☐ Are we bringing in more money than is going out—this year, over the past few years? Is this the right time to spend down some extra reserves, or is it the right time to be saving for the future? How much do we need to build up in unrestricted cash reserves to smooth out cash flows and to prepare for a rainy day?

☐ Are our dollars generally in line with our priorities? For example, if an organization started as a performing dance troupe that secondarily held a few dance classes, it might consider, over time, whether the organization’s attention—as reflected in the budget—has come to over-emphasize the classes over dance performance, without an intentional shift in that direction.

☐ Is the fundraising goal based on realistic planning, or is it part of a “plug” that only serves to balance the budget? Think about the predictability of projected income, and which fundraising objectives will depend on board efforts. Are we comfortable with the “revenue mix”—the relative dependence on various types of income (such as government funding, membership dues, etc.)? For many organizations, the budget process is, in fact, the process through which an organization decides on its priorities, interprets its vision in operational terms, negotiates compromises, and agrees to go forward together. In different organizations, this process is bound to look different. A key in all processes is finding a way for the board to act in a meaningful way, exercising their governance role in both financial oversight and maximizing resources.

One way to be sure everyone on the board is clear on his or her responsibilities is to adopt a “Board Member Agreement.” The discussion the board has about what to put in its Agreement is valuable itself, and this sample may help you get started.

## Board Member Agreement by Jan Masaoka

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I, \_\_\_\_\_ understand that as a member of the Board of Directors of \_\_\_\_\_, I have a legal and moral responsibility to ensure the organization does the best work possible in pursuit of its goals. I believe in the purpose and the mission of the organization, and I will act responsibly and prudently as its steward. As part of my responsibilities as a board member:

1. I will interpret the organization's work and values to the community, represent the organization, and act as a spokesperson.
2. I will attend at least 75% of board meetings, committee meetings, and special events.
3. I will make a personal financial contribution at a level that is meaningful to me.
4. I will actively participate in one or more fundraising activities.
5. I will act in the best interests of the organization, and excuse myself from discussions and votes where I have a conflict of interest.
6. I will stay informed about what's going on in the organization. I will ask questions and request information. I will participate in and take responsibility for making decisions on issues, policies and other board matters.
7. I will work in good faith with staff and other board members as partners towards achievement of our goals.
8. If I don't fulfill these commitments to the organization, I will expect the board president to call me and discuss my responsibilities with me.

In turn, the organization will be responsible to me in several ways:

1. I will be sent, without request, quarterly financial reports and an update of organizational activities that allow me to meet the "prudent person" section of the law.
2. Opportunities will be offered to me to discuss with the director and the board president the organization's programs, goals, activities, and status; additionally, I can request such opportunities.
3. The organization will help me perform my duties by keeping me informed about issues in the industry and field in which we are working, and by offering me opportunities for professional development as a board member.
4. Board members and staff will respond in a straightforward fashion to questions I have that I feel are necessary to carry out my fiscal, legal and moral responsibilities to this organization. Board members and staff will work in good faith with me towards achievement of our goals.
5. If the organization does not fulfill its commitments to me, I can call on the board president and director to discuss these responsibilities.

Signed:

\_\_\_\_\_ Date: \_\_\_\_\_

Member, Board of Directors

\_\_\_\_\_ Date: \_\_\_\_\_ President, Board of Directors

Have the Board Chair sign two copies of this Agreement, and ask new board members to sign them, return one copy to the Board President, and keep the other for reference.



## What is the Board's Role with Personnel by Jan Masaoka

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A frequently sticky issue for nonprofits is the role of the board of directors in personnel and human resource administration. Should the board approve all salaries, or just the director's? If a staff member has a grievance, should it come to the board? How can a board member appropriately give feedback to the director on the behavior of a staff person? Each organization will want to choose its own guidelines on these sensitive and important issues. Here we give just one example for such guidelines, following our principle that the board as a whole governs the organization, while individual board members can be helpful advisors to staff.

**Committee(s):** The board can choose how to delegate personnel-related work; the most common choices are a Standing (permanent) HR Committee, an HR Task Force (that is, a temporary committee), a board-staff standing committee or a board-staff task force. Committee members might include the staff HR Director (if there is one) or executive director, and/or non-board volunteers (such as an HR attorney). (If non-board individuals are members of the committee, decisions have to come back to the board for approval.) In some cases, the HR Committee is also responsible for developing plans and strategies for appropriate recruitment and utilization of volunteers, while in other organizations the HR Committee looks only at paid personnel. In this article we assume a board-staff Committee or Task Force that works only with matters related to paid staff.

**1. Personnel policies and employee manual:** The director is responsible for ensuring the dissemination and implementation of personnel policies and procedures, and that the policies are reviewed as appropriate by the board. At least every two years, the HR Committee reviews the policies with staff and, if appropriate, drafts changes or a complete revision.

**2. Salary schedule:** The executive staff drafts a rate schedule (salary ranges for each position or category) of salaries, which is reviewed by the HR Committee or Task Force. This ensures the board has considered the strategic matters related to salaries which include: (1) Whether the schedule is in line with the organization's values. (2) Whether there is appropriate internal equity/differences among positions and departments. (3) Whether specific positions are appropriately placed on the scale. (4) Whether compensation is in line with that at similar organizations. (5) Or whether the compensation supports (rather than hinders) the organization's ability to recruit qualified staff. The HR Committee or Task Force sends the salary schedule to the whole board for approval.

**3. Salary implementation:** Once a year, the HR Committee or Task Force reviews the specific salaries of the staff (by name and position) against the salary schedule, to ensure no individuals are being paid outside the range for that person's position. The Committee's job is NOT to review whether any specific individual has the right salary, but to protect against favoritism and ensure compliance with the salary schedule.

**4. Benefits:** The benefits schedule (health insurance, long-term disability insurance, 401K, etc.) is reviewed annually as part of the budget process, with costs projected for the coming year. The HR Committee should review the benefits package at least every two years, and can suggest changes (additions or subtractions), along with the financial implications, to the director and/or the board's finance committee.

**5. Hiring:** In some cases one or two board members may help with hiring; a common example is the Board Treasurer participating in the interviewing and hiring of the CFO or Accountant. It should be clear the final decision is made by the staff person to whom the new hire would report. In this instance, individual board members are acting as advisors to staff.

**6. Grievances:** Grievances on the part of employees must first go through the written procedures outlined in the Employee Policies Manual. If an individual has exhausted the grievance process and that process has been documented, individual employees can be permitted (if it is so written in the policies) to raise a grievance to either the Board Chair or the Board's HR Committee which then acts as the final arbiter.

**7. Serious concerns about the organization's management:** for example, the illegal use of funds, sexual harassment or discriminatory behavior by the director, or other SERIOUS concerns of a staff member that cannot be taken up in the grievance process. One way to address this is to allow staff members to raise such concerns with the Board Chair. When other board members hear such complaints, they have a responsibility to direct the staff person to the Board Chair. By limiting the recipient of such charges to the Board Chair, a disgruntled staff member can't try to develop allies on the board against the executive staff, but can still bring an organizational matter to the attention of the board.

## **Should the Board Hold Executive Sessions?**

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An executive session is a meeting (or part of a meeting) of the board without staff present. The director frequently object to executive sessions because they think important matters necessitate input from them (and they just don't like the idea--period!).

But because one of the board's chief responsibilities is to assess the performance of the agency and its director, boards often need to discuss sensitive issues without staff present. Some examples follow where the board needs to gain information and hold candid discussions amongst themselves:

- Annual meeting with the auditor;
- Evaluation of the director, and establishing the director's salary;
- Conflicts between two board members, or serious criticism of a board member by another;
- Investigation into concerns about the director, or report from a management consultant;
- Review of salary schedule, compensation policy, etc.

Some organizations establish a type of "semi-executive session" during which the director is present, but no other staff. Such sessions may include:

- Discussions related to lawsuits, complaints, or grievances from staff or former staff;
- Discussions related to individual staff situations; and
- Discussing the evaluation of the executive director with the executive director.

Despite a certain awkwardness that occurs when staff are asked to leave the room, and despite the frequent need to overcome resistance on the part of the director, there are some discussions that are appropriately held just among board members, such as those listed above.

An effective way to avoid the feeling that "executive session means bad news for staff" is for board chairs to routinely put executive sessions on every agenda or on four agendas per year. That way, the board can meet privately without having to raise tension simply by doing so. In any case, the board should not feel uncomfortable asking staff to be excused for part of any meeting, and the director may even volunteer: "Would you prefer to excuse staff for this next agenda item?"

The minutes of the meeting should indicate the board met in executive session, and report on the topic of the discussion, although the specifics (such as the amount of a lawsuit settlement) may be confidential and appear only in a set of confidential-to-the-board minutes.



## Available Resources

In carrying out your responsibilities, board members should realize they need not do it alone. There are many resources available to assist not-for-profit organizations in fulfilling their fiduciary duties.

**NASCOnet.org** - This site is maintained by the National Association of State Charity Officials (NASCO). NASCO members are employees of state agencies that regulate not-for profit organizations and their fund raisers. The site provides information concerning the registration and reporting requirements applicable to not-for-profits that conduct activities and/or raise funds in the various states. [www.nasconet.org](http://www.nasconet.org).

**The Internal Revenue Service** - posts all of its forms and instructions and many brochures drafted to assist not-for-profit boards in completing their annual financial filings with the IRS and in carrying out their other responsibilities. If you can't find the information you want on the IRS web site, call its toll-free number for tax-exempt organizations at 1-877-829-5500. [www.irs.gov](http://www.irs.gov).

**Alliance for Non Profit Governance (ANG)** - is an organization whose purpose is to encourage and promote good governance in the nonprofit sector. Its web site posts information on good governance, links to other sites of interest for not-for-profit boards and information about courses and conferences for nonprofit board members. [www.angonline.org](http://www.angonline.org).

**American Institute of Certified Public Accountants (AICPA)** - The AICPA's web site has extensive information on accounting standards and procedures. It is a valuable source of a wide variety of information on accounting issues for board members. [www.aicpa.org](http://www.aicpa.org).

**Board Café** - is an electronic newsletter for members of nonprofit boards of directors. Board Café offers a menu of ideas, information, opinion, news, and resources to help board members in carrying out the responsibilities of their board service. [www.compasspoint.org](http://www.compasspoint.org).

**Board Source, Inc.** - is a source of basic information for board members with a wide range of material designed to assist board members in carrying out their duties. [www.boardsource.org](http://www.boardsource.org)

**Council on Foundations** - is a membership organization of more than 2,000 grant making foundations and giving programs worldwide. It provides leadership expertise, legal services and networking opportunities, among other services, to its members and to the general public. Its web site contains information of interest to not-for-profit boards. [www.cof.org](http://www.cof.org).

**The Foundation Center** - The Center's mission is to strengthen the nonprofit sector by advancing knowledge about U.S. philanthropy. It collects, organizes and communicates information on U.S. philanthropy, conducts and facilitates research on trends in the field, provides education and training on the grant seeking process and promotes public access to information and services through its web site, print and electronic publications and five library/learning centers. [www.fdncenter.org](http://www.fdncenter.org).

**Guide Star** - is a national database of financial reports and other information on over 850,000 tax-exempt U.S. charitable organizations on its web site. It is a source of information about the operations and finances of nonprofit organizations. [www.guidestar.org](http://www.guidestar.org).

**Independent Sector (IS)** - is a national coalition of nonprofit organizations of all sizes as well as Fortune 500 corporations with commitments to community involvement. IS advocates on behalf of and provides educational services to the nonprofit sector. [www.independentsector.org](http://www.independentsector.org).

**The Minnesota Council on Non Profits (MCN)** - is a membership association of over 1300 Minnesota nonprofit organizations that shares information, services and research to educate its members and the community. The "Info Central" section of its web site contains information of interest for not-for-profit organizations regardless of their state of formation or location, services. [www.mncn.org/infocentral.htm](http://www.mncn.org/infocentral.htm).

**Support Center for Nonprofit Management** - The mission of the Support Center is to strengthen the capacity of nonprofit and public interest organizations to fulfill their missions. It provides management training and consulting and disseminates information and resources to local and national organizations, foundations and government agencies. The Support Center works directly with Board Leaders, Executive Directors and their staff to assist them in solving problems and maximizing their opportunities to carry out successful programs. The Support Center's web site contains information for nonprofit organizations and links to other web sites of interest. [www.supportctr.org](http://www.supportctr.org).

**The Urban Institute** - is a nonprofit nonpartisan policy research and educational organization established to examine the social, economic, and governance problems facing the nation. It provides information and analysis to public and private decision makers to help them address these challenges. It maintains extensive databases of information on the not-for-profit sector. [www.urban.org](http://www.urban.org).

**Volunteer Consulting Group (VCG)** - is a nonprofit organization whose mission is to strengthen the governing and management capability of nonprofit boards of directors by bringing qualified leadership into service as board members. VCG assists boards in defining their board recruitment objectives and then conducting a targeted search for business, professional and community leaders with the desired expertise, diversity of perspective and resources. VCG's web site is a resource designed to enable potential board members--and nonprofit boards needing leadership--to find each other. [www.boardnetUSA.org](http://www.boardnetUSA.org).

For more information contact the  
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